

Federal Housing Finance Board

§ 908.4

AUTHORITY: 12 U.S.C. 1422b(a)(5), 4631(c) and (f), and 4632-4641. Section 908.4 is also authorized by 12 U.S.C. 1818(b)(6) and (7).

SOURCE: 67 FR 9903, Mar. 5, 2002, unless otherwise noted.

Subpart A—Introduction

§ 908.1 Scope.

This part prescribes rules of practice and procedure applicable to any hearing with regard to:

(a) Cease and desist proceedings under section 2B(a)(5) of the Act (12 U.S.C. 1422b(a)(5)); or

(b) Civil money penalty assessment proceedings under section 2B(a)(5) of the Act (12 U.S.C. 1422b(a)(5)).

§ 908.2 Definitions.

For purposes of this part—

Decisional employee means any employee of the Finance Board, except the Office of General Counsel, or any member of the presiding officer's staff who has not engaged in an investigative or prosecutorial role in connection with the subject cease and desist or civil money penalty proceedings and who may assist the Board of Directors or the presiding officer, respectively, in preparing orders, recommended decisions, decisions and other documents under this part.

Hearing means an adjudicatory proceeding conducted pursuant to this part;

Notice means a written notice of charges or notice of assessment of a civil money penalty so titled that served by the Finance Board upon a respondent, which conforms to § 908.40 and describes the alleged violations with sufficient specificity to put the respondent on notice of the nature and scope of the charges being brought against him, except in the context of the plain meaning of the word notice in a provision, such as reasonable notice or actual notice.

Party means, for purposes of subparts C through F of this part only, the Finance Board or respondent.

Person means an individual, sole proprietor, partnership, corporation, unincorporated association, trust, joint venture, pool, syndicate, agency, Bank, or other entity or organization with the exception of the Finance Board.

Presiding officer means an administrative law judge or other qualified, neutral individual who is appointed by the Finance Board under applicable law, and, pursuant to Title 5 of the United States Code, may conduct a hearing or adjudicatory proceeding under this part.

Representative of record means an individual who is authorized to represent a respondent (and includes a respondent who represents himself) at a hearing conducted under this part and who has filed a notice of appearance in accordance with § 908.72.

Respondent means any person named in a notice of charges or notice of determination to impose civil money penalties issued by the Finance Board.

Safety and Soundness Act means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501-4641) (Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102-550).

Violation includes any act or omission by any person, undertaken alone or with one or more others, that causes directly or indirectly, counsels, participates in, or otherwise furthers, aids or abets a violation of the Act, other applicable law, regulation, or order of the Finance Board.

§ 908.3 Rules of construction.

For purposes of this part—

(a) Any term in the singular includes the plural and the plural includes the singular, if such use would be appropriate;

(b) Any use of a masculine, feminine, or neuter gender encompasses all three, if such use would be appropriate; and

(c) Unless the context requires otherwise, a party's representative of record, if any, may, on behalf of that party, take any action required to be taken by the party.

Subpart B—Scope and Authority— Enforcement Proceedings

§ 908.4 Cease and desist proceedings.

(a) *Notice of charges*—(1) *Grounds*. The Finance Board may issue and serve a notice of charges upon a Bank or any executive officer or director of a Bank if the Finance Board determines that such party is engaging or has engaged